IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 137 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

DEEPAK NITRITE LTD.

Appearance:

MR MANISH R BHATT for Petitioner

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 07/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

At the instance of Revenue, the Income Tax Appellate Tribunal, Ahmedabad Bench "B" has referred following question of law for the opinion of this Court relating to Assessment Year 1986-87:-

> "Whether, on the facts and in the circumstances of the case, the Tribunal is right in holding that the assessee is entitled to grant of depreciation on factory building and office building of Pune unit though the conveyance deed in respect of these properties was not registered in favour of the assessee till the end of the accounting year relevant to the previous year under consideration?"

We have heard the learned Counsel for the Revenue. Though served, no one appears on behalf of the respondent. The learned Counsel for the Revenue fairly states at the bar that the controversy raised in the present reference is concluded by the decision of the Supreme Court rendered in the case of the very assessee - Commissioner of Income Tax Vs. Deepak Nitrite Ltd., reported in (2000) 243 ITR 825. In view of the aforesaid decision, we are of the opinion that the Tribunal is right in holding that the assessee is entitled to grant of depreciation on factory building and office building of Pune unit though the conveyance deed in respect of these properties was not registered in favour of the assessee till the end of the accounting year relevant to the previous year under consideration. The reference is therefore answered in the affirmative i.e. in favour of the assessee and against the Revenue. The reference stands disposed of accordingly with no order as to costs.

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*/Mohandas